

FILED

MAR - 3 2011

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

UNITED STATES OF AMERICA,)	No. CR 11-00049-CW (DMR)
Plaintiff,)	
v.)	DETENTION ORDER
OSIRIS MERLOS-YOVANY,)	
Defendant.)	

I. DETENTION ORDER

Defendant Osiris Merlos-Yovany is charged in an indictment with illegal reentry into the United States following deportation in violation of 8 U.S.C. § 1326(a) and (b)(2). On February 22, 2011, the United States moved for Mr. Merlos-Yovany's detention and asked for a detention hearing, as permitted by 18 U.S.C. § 3142(f). Defendant did not request a full bail study at this time. Pretrial Services did, however, prepare a criminal record report. At the March 3, 2011 hearing before this Court, Defendant waived the timing of his right to proffer information at a detention hearing, *see* 18 U.S.C. § 3142(f) (a defendant has the right at a section 3142(f) hearing, with the assistance of counsel, to testify, to present witnesses, to cross-examine adverse

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1 witnesses, and to present information by proffer or otherwise), but he retained his right to raise
2 any additional relevant information at a later hearing. The Court notes that Defendant is subject
3 to an immigration detainer issued by Immigration and Customs Enforcement ("ICE").

4 After considering the limited information available to the Court, and the factors set forth
5 in 18 U.S.C. § 3142(g), the Court detains Mr. Merlos-Yovany as a serious risk of flight and finds
6 that no condition or combination of conditions in 18 U.S.C. § 3142(c) will reasonably assure his
7 appearance in this case. *See* 18 U.S.C. §§ 3142(e) and (f); *United States v. Motamedi*, 767 F.2d
8 1403, 1406 (9th Cir. 1985).

9 II. CONCLUSION

10 The Court detains Mr. Merlos-Yovany as a serious flight risk. Because Defendant
11 waived his right to present information under 18 U.S.C. § 3142(f) without prejudice to raising
12 relevant information at a later hearing, the Court orders that the hearing may be reopened at
13 Defendant's request at any future time.

14 Mr. Merlos-Yovany shall remain committed to the custody of the Attorney General.

15 IT IS SO ORDERED.

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18 DATED: March 3, 2011



19 DONNA M. RYU
20 United States Magistrate Judge
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